

REMARKS

Claims 104-109, 115, and 120-135 are pending in this application, of which claims 104-109, and 132-135 are withdrawn from consideration. Reconsideration of the application in view of the following remarks is respectfully requested.

I. WITHDRAWAL OF CLAIMS 132-135

Applicants acknowledge the Examiner's withdrawal of claims 132-135. Applicants submit, however, that restriction of these claims is not appropriate. The Examiner would classify claims 132-135 in the identical class as the previously examined claims. The subject matter of these claims has not attained recognition in the art as a separate subject for inventive effort and would not require a separate field of search than that already conducted. Accordingly, Applicants respectfully request that the Examiner withdraw the restriction and examine the claims in the present application.

II. THE CLAIMS ARE PATENTABLE OVER U.S. PATENT No. 5,885,238

Claims 115, 120-126, and 128-131 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,885,238 to Stevens, *et al.* (hereinafter "Stevens"). Claim 127 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Stevens. These rejections are respectfully traversed.

Claim 115 is directed to a method of repairing an aneurysm in a vessel using at least two sheath devices. The recited method comprises the steps of: introducing at least a portion of the sheath devices into the vessel; inserting a repair apparatus through a sealing cavity containing a self-sealing gel-like material disposed in at least one of the sheath devices; repairing the aneurysm in the vessel; and removing the repair apparatus from the sheath devices and the sealing cavity.

Claim 124 is directed to a method of reducing the loss of blood from a vessel using a first sheath device in communication with a second sheath device, at least one of the first and second sheath devices comprising a sealing cavity. The recited method comprising the steps of: introducing the first sheath device into the vessel; introducing the second sheath device into the vessel; inserting at least one repair apparatus through the sheath devices and the sealing cavity; performing a surgical procedure; and removing the repair apparatus from the sheath devices and the sealing cavity. The remaining claims pending in the application depend from either Claim 115 or Claim 124 and include at least all the limitations recited therein.

Stevens does not disclose, teach, or suggest the claimed subject matter of the present invention. Although Stevens is directed generally to devices and methods for performing cardiovascular procedures, Stevens does not teach a method of repairing an aneurysm in a vessel or a method of reducing the loss of blood from a vessel as recited in the present claims. Moreover, Stevens does not teach providing a device having a sealing cavity, and inserting a repair apparatus through the sealing cavity.

In the present Office Action, the Examiner states that "Stevens teaches treatment of aneurysms (col. 17, line 9) using two sheaths (broadly shown in figure 6, the patent teaching that any of a number of instruments may be inserted through the sheaths; see col. 17, line 9)." Notably, the Examiner fails to identify a sealing cavity in Stevens. Figure 6 discloses an occluding catheter having a balloon 11 and a distal port 41, and a heart replacement valve delivery catheter 75 advanced through the occluding catheter. See Fig. 6; Col. 26, l. 45 – Col. 27, l. 3. The catheter disclosed in Stevens has an open distal port 41 through which fluids are passed. See Fig. 6, Col. 21, ll. 25-40. The

disclosed device does not teach a sealing cavity and the insertion of a repair apparatus through the sealing cavity. Rather, the catheter described in Stevens, and its function of openly passing fluids, actually teaches away from a device and method that provides a sealing cavity through which instruments, but not fluids, may pass, as presently claimed.

For at least the reasons set forth above, Applicants respectfully submit that Stevens fails to disclose, teach or suggest the invention claimed by Applicants. Reconsideration and withdrawal of the rejections are respectfully requested.

III. CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims of the present invention define subject matter patentable over the references cited by the Office and that the application is in condition for allowance. Should the Office believe that anything further is desirable to place the application in better condition for allowance, the Office is invited to contact Applicants' undersigned attorney at the below listed telephone number.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to deposit account number 03-2469. Moreover, if the deposit account contains insufficient funds, the Commissioner is hereby invited to contact Applicant's undersigned representative to arrange payment.

Respectfully submitted,

Date: August 9, 2004



JOHN N. COULBY, Reg. No. 43,565
MARK W. RYGIEL, Reg. No. 45,871
COLLIER SHANNON SCOTT, PLLC
3050 K Street, N.W., Suite 400
Washington, D.C. 20007
(202) 342-8400